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09/195,005	11/18/1998	BERND WILLING	MO-4861-HE-1	3843

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PATENT DEPARTMENT
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EXAMINER

VALENZA, JOSEPH E

ART UNIT	PAPER NUMBER
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3651

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Paper No. 24

Application Number: 09/195,005
Filing Date: November 18, 1998
Appellant(s): WILLING, BERND

Gary Matz
For Appellant

EXAMINER'S ANSWER

MAILED

AUG 12 2003

GROUP 3600

This is in response to the appeal brief filed July 21, 2003.

Art Unit: 3651

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) Status of Claims

The statement of the status of the claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Invention

The summary of invention contained in the brief is correct.

(6) Issues

The appellant's statement of the issues in the brief is correct.

(7) Grouping of Claims

The rejection of claims 7-9 stand or fall together because appellant's brief does include a statement that this grouping of claims stand or fall together.

(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

No prior art is relied upon by the examiner.

Art Unit: 3651

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 7-9 are rejected under 35 U.S.C. 112 for the following reasons.

The claims 7-9 are based on an inadequate disclosure because they contain "detachable connection element" and "connecting element" that the Board of Appeals had determined in its September 25, 2002 decision were inadequately disclosed. While references are made on page 5 of the amendment to disclosures in the original disclosure to define the designs of "detachable connection element" and "connecting element", these disclosures already have been considered by the Board of Appeals as being inadequate.

The removal of the other inadequately disclosed elements "coupling element" and "detachable element" from the insertion and the removal tracks noted by the Board of Appeals makes the new claims incomplete because these elements enable the wagons to move along the insertion track and couple with or decouple from the insertion or removal track. Since these functions are in lines 22, 24, 30 and 31 of claim 7, the claims 7-9 are incomplete because the means, which permit these functions to occur, must be claimed even though they have been considered by the Board of Appeals as being inadequately disclosed.

With regard to claim 9, the claim is incomplete because no means has been claimed which performs the pushing function along the insertion and removal tracks. There also is no disclosure for one wagon pushing a preceding wagon along the removal track as claimed.

Art Unit: 3651

Claims 7-9 are also unclear. Line 27 requires all wagons to travel "around said oval track". This phrase does not include travel less than one complete loop. Note also figures 1, 2 and 4 show a wagon that has passed the removal track. However, the language of the last four lines of claim 7 requires every wagon to be removed from the oval track and moved to the removal track. This conflicting language makes the claims unclear.

(11) Response to Argument

With regard to the remarks on pages 3-7 of the July 21, 2003 brief, appellants argue that the examiner has not met the "burden of presenting evidence or reasons why persons skilled in the art would not recognize in the disclosure a description of the invention defined by the claims". Since the elements were first ruled by the Board of Appeals as being inadequately disclosed in their decision of September 25, 2002, the examiner finds this fact as meeting the burden.

Respectfully submitted,



JOSEPH E. VALENZA
PRIMARY EXAMINER

JEV
8/7/03

Conferees

CE
JB